

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:)
)
LAW ENFORCEMENT) ADMINISTRATIVE CAUSE
LAKE JAMES CHAIN BOATING RULES) NUMBER: 00-021W
AMENDMENTS)

**REPORT OF PUBLIC HEARING,
PUBLIC COMMENT, DNR RESPONSES AND
RECOMMENDATION FOR FINAL ADOPTION**

I. BACKGROUND

On May 1, 2003, Notice of Intent to adopt a rule was published in the Indiana Register to amend 312 IAC 5-6-5 governing special watercraft restriction on Lake James and the other lakes in the Lake James Chain of Lakes. The Natural Resources Commission granted preliminary adoption to the proposed rule on July 22, 2003. Text of the proposed amendments and notice of two public hearings were published on October 3, 2003 in the Indianapolis Daily Star, a newspaper of general circulation in Indianapolis, and in the Herald Republican, a newspaper of general circulation in Angola.

he public hearings were held on November 7 and November 8, 2003, at Pokagon State Park Nature Center in Angola, Indiana. The public hearings were well attended with more than 80 people attending.

Attached are the written comments, public hearing comments, and recommendations for final adoption.

Dated: November 17, 2003

Sylvia R. Wilcox
Hearing Officer

II. COMMENTS – Public Hearing, E-mail and Written

Comments provided at Public Hearing November 7, and November 8, 2003

Glen Beecher, a homeowner on Snow Lake, spoke and provided written comments at public hearing on November 7. He stated that everyone treats Follette's creek as a no-wake zone now, and he has never seen anyone going high speed because it's not possible to speed in this area. He asks, "why spend limited financial resources to fix problems that don't exist?"

Snow Lake – Beecher states the same for Snow Lake, everyone treats this as a no-wake zone, and it "has been treated as an idle zone by all boaters for the entire 17 years I have navigated this Lake James Chain." Beecher stated that the area proposed for idle zone is too large, specifically, the line referenced 3-4 is too high in the area. "...If the reasoning is for safety then simply shut down the area behind the island to an idle only zone and leave the open part of the lake intact." He states that if the intent is to preserve the reed area, the line reference by 1-2 should extend completely back to Snow Lake. He suggests that an idle zone be placed to the left of the island depicted.

Narrows – Beecher questions the number of accidents occurring in this area and suggests a no-tow zone during peak times. He states that the proposal is the wrong solution. "Make it a no-tow zone at peak periods or place a Conservation Officer there from 1pm to 4pm on Saturday, Sunday, and Holidays. The proposed idle speed zone in the middle of the lake will likely cause more accidents due to the unexpected backups in the area that will occur as even seasoned boaters and lake residents will be caught by surprise in this area."

Joe Sweeney of Lake James spoke at public hearing on November 7 and provided written comments. He stated agreement with Mr. Beecher.

Follette's Creek- Sweeney has no problem with the rule proposed for Follette's Creek.

Snow Lake – Sweeney stated that his area defined in the rule is "overkill." He states that the area is date-driven and there is no data showing that this area is a problem. He states that the area is busy during the holidays, so regulating this all year does not make sense. Sweeney states that this area is "prime skiing area" especially for people who get up early. He states that too much lake will be taken away from these people when the lake is not busy. Sweeney also suggests that the rule provide for a "keep right" provision instead.

Dale Boone of Lake James appeared for the Nov. 7 public hearing and agrees with Mr. Beecher.

Narrows and Snow Lake- He provides that he doesn't know of any casualties in the area and believes that the proposed rules will create more problems than solve. He states that the lake has minimal traffic on weekdays, and are busy 4-5 weekends per year. He does

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not believe the area needs a speed limit since law enforcement may write a reckless drigin citation or negligent operation ticket at any time. He states that the proposal would limit this area and cause people to overpopulate other areas. Boone also suggests that the coastguard and local sheriff be asked for assistance in patrolling the areas.

Don and Rene Scheimann of Lake James provided comment at public hearing November 7.

Narrows – R. Scheimann provides that one of the problems on Lake James is the wakes at the shorelines and docks. She states that this might get worse when boats slow down quickly to idle. D. Scheimann suggests this area be a no-tow zone/no u-turn area, with a maximum speed of 20-30 mph. He also suggests that a restriction of big boats at high speeds is needed.

Snow Lake - D. Scheimann states that the key here is wetland protection. Therefore, 400 piers presently on this area are ridiculous. He believes that restrictions on the lake through these proposals will hurt property values and suggests possibly an idle zone behind the island depicted. He states agreement with Beecher regarding an idle zone around the island depicted.

Les Bender of Fort Wayne also spoke at the Nov. 7 hearing.

Narrows- Bender stated he's lived on the lake for 49 years, and cannot remember a safety issue on Lake James. He states that with the proposal, people will come up to the idle areas and quickly bank and turn around causing more problems. He states that people on the lake don't like to slow down. He asks for data in support of the proposal, and asks what's next.

Snow Lake, Follette's Creek – Bender agrees with Beecher that the areas get busy a few weekends out of the year. He states that everyone slows down then.

Rob Driver of Big Otter Lake spoke at the public hearing Nov. 7. Driver states that he offers a "unique perspective" in that he boats all 3 areas everytime he goes out in his boat.

Follette's Creek - Driver agrees that this area should be idle. He states that in 9 years, he's never seen anyone going at dangerous speed through this area. He states that he doesn't agree with the Follette's proposal but believes the "resources can be better spent."

Narrows – Driver agrees that the proposal will cause people to completely stop or loop around and create large waves. He believes the area is too large as described. Driver asks where is the shorelilne. He supports seasonal regulation of the area, "no more than 6-8 weekends" are described as busy.

Snow Lake – Driver states that the area chosen is too large.

Velda Dose of Big Otter Lake spoke as well at the November 7 hearing.

Follett Creek – She stated that many people use the boat access and don't know this is a ten mile per hour creek. She has seen watercraft racing to get through this area "like it's the Everglades." Dose indicated something must be here to stop people and would like the speed limit posted.

Dennis Roller of Lake James attended the Nov. 7 hearing. Roller states that all the comments thus far regard negligence of boating zones – "people breaking laws 95% of the time is because people don't know the law." He states that education is needed, "the boating laws are not known." Although power has increased on boats, he believes education has not corresponded. Education "will do away with these rules."

Bill Schmidt of Lake James stated that enforcement is needed most, "post as much as you want." The proposal he feels will cause inconvenience to "those using the lake." He asks, "who will enforce the law anyway?"

Snow Lake – Schmidt stated that if the point is to see into the channels between James and Snow, "you still can't see- the points are too far away to do good." Line 3-4 was stated to be too far away.

Pat Wright of Lake James spoke on Nov. 7.

Narrows – Wright indicated that placing these restrictions is "like putting a stoplight on the interstate." Wright states that this is dangerous because it will cause people to turn around and back up traffic.

Snow Lake and James- Wright states that it is common sense that people will go slow here. The area is described as too big and the line is too far out. Wright states that this is "overkill."

Debra Gonde of Lake James provided comment on Nov. 7. She states that the biggest issue is more education, and believes that many people that don't live on the lake year round are in need of education. She asks why has this come about after all these years?

Ruth Carteaux of Snow Lake spoke on November 7.

Snow Lake and James – Carteaux supports Beecher's comments, and believes this is "overkill" because 3-4 line is too far back.

Narrows – Carteaux stated that people will turn around and cause terrible wakes on the Narrows.

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Corkie Van, a 50 year resident of Lake James, spoke on Nov. 7.

Follette Creek – Van stated that he agrees with the idle zones on Follett Creek or a minimum speed. He states that those that didn't know this is not an idle zone know it now.

Snow Lake and James – Van indicated that the restrictions are “overkill” and should apply only to the channel area.

Bob Coater, a 37 year resident of Snow Lake, spoke on November 7.

Follette Creek – Coater said that he has patrolled the lake and seen speeders here, along with a beached pontoon boat. He stated he's also seen a 30' boat accident.

Snow Lake and James – Coater expressed that there is a blind spot on the lake, where he's written many tickets. He stated he's seen boats and skiers speeding through this area making this a safety hazard.

Narrows - He stated that some boats have been “pulled off ropes at the beach.” No lifeguard is at the beach, and in 1969 he states there was a drowning from a canoe. He states that “someday a boat will hit swimmers at the beach and we'll regret it.”

Lynn Faulkner of Snow Lake spoke November 7.

Follette Creek – Faulkner agrees with the idle zone on the creek.

Snow Lake and James – Faulkner states that although there is no data, “are we going to wait for someone to get hurt here?”

Narrows - He stated that he's been through the narrows, and it is “not a good place to be on the weekends.” He does not believe that the proposal will back traffic up anymore than at Snow Lake and states that “something has to be done.”

Charles Dart of Big Otter Lake also spoke on November 7.

Narrows - He commented that the proposal goes about the problem wrong. Dart asks why not just limit the size of the boats and the speed allowable. He believes that the boats don't need to be 60 to 70 mph boats.

Bill Hill of Lake James provided comments on November 7.

Narrows: Hill states that u-turns will cause large wakes on Lke James. He states that enforcement is needed for “rules on the books now.” He asks “what's next?” Hill stated

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that “government will bring more and more regulations.” Education is a good idea he says. Hill suggested that if a rule is needed, it should “just be on the weekends, and just between Memorial Day and Labor Day.”

Jeff Bell, a resident of Lake James since the mid-1940’s, spoke on November 7.

Narrows – Bell sees “nothing but problems if boats slow down here.” He believes that this will be “no different than the inter-coastal waterways with bigger boats.” Bell states that there is no data to support these changes, rather, “enforcement is needed of existing laws.”

Terry Archibald of Snow Lake also appeared at the Nov. 7 public hearing. Archibald, a boat dealer, agrees that the lakes should not be “overregulated.”

Mary Wyatt of Lake James spoke on Nov. 7.

Narrows – Wyatt supportss bigger, brighter colored buoys at the beach area. She states that the current buoys blend in with boats too well. She states that in 38 years, she has not seen an accident.

Jeff Blue, owner of a summer residence on Lone Tree, spoke on Nov. 7. Blue states that he has been on the lake for more than 45 years. He states that for 99% of the people on Lake James, no rules are needed. However, he has seen a public access problem. Blue states that the conservation officers must be able to control the area, but the law is not defined well enough. Blue disagrees that regulation will hurt property values and states, “look at Lake George.” Blue states that George is regulated, but property values “are not hurting.” Blue supports a time line for regulation, between Memorial Day and Labor day. He provides that the rule should not be year round.

Narrows – Blue indicates that he has seen people speeding through the Narrows through the 2nd and 3rd basin.

Colleen Boyd of Hamilton Lake spoke on Friday, Nov. 7 at hearing. Boyd indicates that the personal watercraft is the problem. She states that laws on the lake regarding drinking and driving are needed.

Patricia Hull spoke at the Saturday, Nov. 8 hearing.

Narrows - Hull explained that she petitioned the Division of Law Enforcement following a near accident with her family, a waverunner almost ran over her boat near the beach. She indicated the girl was busy watching the beach that she did not slow down when approaching Hull’s boat until Hull screamed. Hull explained her boat was swamped and luckily, no one was hurt. She called DNR stating that “something must be done.”

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Follette Creek – Hull stated that she has seen others traveling faster than idle speed while in her boat, and stated that there is no room for one boat to go at idle while others do not. She stated the area is too narrow and “accidents can happen.”

Bob Shaffner of Lake James appeared at the Nov. 8 hearing.

Follette Creek – Schaffner stated he does not have a problem with this area being idle zone.

Snow Lake and James, and the Narrows –Shaffner expressed that these two proposed areas are too large in size. On Snow, he states that boats will back up into Lake James and lead to more water rage. Through the Narrows, he suggests a no-tow zone to alleviate the problem.

Russ Reichert of Lake James spoke on Nov. 8.

Narrows – He sees this as the only problem area. Reichert states that he has lived here for a number of years and some people have had close calls. He suggests this area be designated a no-tow zone seasonally and weekends only, and suggests more enforcement. Reichert also agrees that the beach should be better marked, perhaps with a blinking light at the south edge of the beach. He states that many people don’t know this is a beach. This also is suggested only on weekends since there is no problem during the week.

Bill Mansfield of Ely Point spoke at the Nov. 8 hearing.

Narrows – Mansfield suggests the area be a no-tow or at least reduced speed, only on holidays and weekends. He also suggests a directional “keep right” requirement on the lake. He agrees that people will turn around from either direction when the zone is noticed, and this will create more problems. Mansfield suggests a skier-down flag that other states use. He states that no one can be seen in the water. Mansfield agrees that the beach should also be more identifiable and colorful. He states that the overcrowding is a problem, for example the northern marina and the southern condominiums will lead to 55 additional piers facing Lake Jimmerson. He suggests that eventually, people will be afraid to go out on the beach.

Randy Strebig of Lake James also appeared on Nov. 8.

Follette Creek – Strebig supports the restrictions proposed on this area. “Conservation officers need laws that can be used clearly.

Snow Lake and James – Strebig asks that the area here not be “overreached.” He states that if it can be proven that Conservation Officers need a way to address this problem, marking the zone then makes sense.

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Narrows – Creating a zone here creates other problems above and below the area. He suggests that the zone be limited to the channel itself. He visualizes large u-turns in both directions of the proposed zone, causing new problems. He suggests the restrictions be used only from Memorial Day to Labor Day, from 10 am to sunset, and only on weekends. Additionally, Strebig suggests using a center line through the lake to delineate north and south.

Joe Sweeney of Lake James spoke as well on Nov. 8.

Follette Creek – Sweeney supports the idling of the creek.

Snow and James – Sweeney states that this area should include the channel only.

Narrows – Sweeney is opposed to restricting this area.

Mick Mills of Lake James provided comment on November 8.

Narrows – Mills asks what will happen to his shoreline if these rule proposal are upheld. He states that the noise factor and increases in wave action will result when people slow down. He also feels that beach erosion on property will be compounded when larger boats slow down. He favors no-tow zones and buoys dividing north-south traffic.

Joe Willig spoke at the public hearing Nov. 8.

Narrows – Willig feels that the laws are already on the books and enforcement needed. He agrees that the beach should be more clearly marked. The problem he states is seasonal and restrictions should be limited to the time of day, time of the year and season. He supports morning to sunset, and Memorial Day to Labor Day would be a good compromise.

Richard Bottomly spoke at the Nov. 8 meeting.

Narrows – Bottomly states that this area should be an idle zone, only on weekends and holidays – Memorial Day to Labor Day. He believes the area proposed is too large.

Snow and James – Bottomly states that the area proposed is also too large.

Follett Creek – Bottomly states that he assumed the creek was idle, and states that if it is not a law, “it should be.”

Tom Hazelett of Eli Point spoke at public hearing on November 8.

Narrows – Hazelett states that this proposal is a “bandaid.” He states that the real problem is that this is a 1000 acre lake which has boats that are too large. He states that it doesn’t

matter if the speed is limited, because the boats must be limited in size.

Mike Whalen of Lake James also spoke at the Nov. 8 public hearing.

Narrows – Whalen states that slowing down at this area will cause other problems, including erosion and boats backing up. He supports this area being a no-tow zone, on Saturdays and Holidays, from Memorial Day to Labor Day.

Don Scheimann of Lake James provided comments on Nov. 8.

Snow and James – Scheimann states that the area proposed is “overkill.” He states that he has sat with Lt. Ralph Taylor and seen decelerating boats cause increased waves. Scheimann states that the Lake owners shouldn’t “shoot themselves in the foot” by overly restricting the lake. Property values he describes as going up every year.

Karen Drew of Lake James, a member of the Board of Directors for Lake James, spoke on Nov. 8.

Snow and James – Drew supports a no-tow zone but believes the area is too large as proposed. She states that this area is calm and is a good place to ski and tube.

Narrows - Drew supports the placement of buoys to keep right.

Doug Zollinger also spoke on the Nov. 8 meeting and provided e-mail comments:

Narrows, Snow and James – Zollinger stated that he hates to see freedoms over taxed and “no wake zones for the narrows on Lake James and the channel between Lake James and Snow Lake are to intrusive on our rights on the lakes...” He provides in e-mailed comments, “to slow boats down before entering this zone will create far more problems for the residents in the area then they presently have. We will see much more beach erosion and accidents due to your proposed zone. Boaters will come to the new zone and make a quick turn to avoid the area which throws even larger waves into the zone. Boats that do chose to slow down will go into the zone with the bow up creating blind spots and larger waves to erod the shore line. The same practice will have boaters entering and leaving the zone with the bow up, large waves and blind spots. This is a recipe for an accident that other proposals would not create.” He states that a solution would be to “install large directional floats and then monitor the area. If the problem is not corrected then put a speed limit through that area of 25 mph along with the directional floats.”

Snow and Follette – Zollinger states that the areas proposed are too large, and common sense is needed. He encourages that more enforcement be used. Zollinger states that more problems will be created from this proposal. He writes “... I feel that the channel between Snow Lake and Lake James should be limited to the channel only! To extend

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past the channel only moves what only a few people see as a problem to some where else on the lakes. That would take away from one of the only sane parts of the lakes on a weekend that can be enjoyed by the families who would like to entertain their kids and friends. I have not seen a problem in this area in the thirty five years that I have been navigating these lakes.”

Follette Creek- “I do not have an issue with the proposed area involving Follette Creek. Most boaters already felt that this was a no wake zone.”

Tom Wright of Snow Lake provided comments on Nov. 8.

Narrows – Wright states that he used to live in the Narrows and when the center line was used, it seemed to work. He suggest this be done again. Wright agrees with other commenters that more enforcement is needed, only on weekends.

Snow and James - Wright suggests that this area should be a channel only.

Follette Creek – He suggests that this area only include the channel too.

Dave Wiggins of Snow Lake spoke on Nov. 8.

Narrows – Wiggins sees no reason to restrict the Narrows.

Snow and James – Wiggins supports the rule proposal on this area.

Follette Creek – Wiggins supports the proposal on this area.

Jim Saliwey of Big Otter Lake spoke at the November 8 hearing.

Follette Creek – Saliwey state that he lives on Follette and “he can count on one hand the number of people seen traveling an excessive speed.” He states that this will create new laws when other laws are not enforced. He states there is no reason to restrict this area.

Snow and James – Saliwey states that the area on Snow proposed is too much. He suggest that prohibitions be placed only on weekends as needed.

Narrows – Saliwey supports a dividing line in the lake.

Jim Mooring of Jimmerson Lake provided comments at the Nov. 8 hearing. Mooring suggests that the size of boats looked into as well as the noise factor from the boat.

Paul Hollenbeck presented comments at the Nov. 8 public hearing.

Narrows – Hollenbeck believes this area should be limited to restrictions on weekends, and no large boats should be allowed.

Snow and James – He also suggests that the channel be the only restricted area for no wake zone.

Steve Schroeder of Follette Creek spoke at the Nov. 8 hearing.

Follette – Schroeder states that he has experienced high speed on this creek. He supports this area being no-wake zone, especially since the wetlands have eroded. He desires signs and channel, boat launches and bridge to educate people.

Snow and James – Schroeder states that the area proposed is “exaggerated” and should be the channel only. He states that this area needs a center lane at the beach, and no tow should be restricted to weekends. He states that he is not in favor of making rules without the manpower to enforce.

Becky Cornick of Lake James also provided comments at the Nov. 8 hearing. She suggests that boat size and speed limits be regulated.

Narrows – Cornick suggests that a centerline be used between the 1st and 2nd basin.

Dave McKeeman of Lake James spoke at the Nov. 8 meeting. He states that this process should be put off for a year in order to allow people from DNR to meet with associations and people who live out of state. He states that it appears that comments were not considered from earlier meetings.

Snow and James – McKeeman states that the area proposed is “overkill.” He states that this proposal will lead to more ecological problems.

Narrows – McKeeman states that the centerline buoys is not practical because the channel is 40-50 feet deep. Drift leads to the movement of the buoys.

Denny Zent spoke at this November 8 public hearing also.

Follette Creek – Zent agrees with the proposal and states that the creek should be slower and no more than 5 mph.

Snow and James – Zent states that this area is excessive, only the channel should be restricted.

Narrows - This area is also seen by Zent as too large. He suggests that the problem only occurs on weekends. Buoys are suggested to encourage people to go slower, and a no-towing zone makes sense he states. He asks that the DNR not take away freedoms from those who do not err.

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Peter Kollen of Lake James spoke at the Nov. 8 hearing and lives on the 1st Basin.

Narrows – Kollen states that the lifeguard stands should be used to make the beach obvious and buoys should be identifiable at the area. He also suggests that the previously used diving boards and platform be placed to identify the beach.

Rob Driver appeared at both public hearings and indicated he enters all three areas proposed for change whenever he boats on the lake.

Follette Creek – Driver supports regulation on this area and states regulation is only “as good as its enforcement.”

Narrows – Driver suggests that the coordinates be checked to identify the area. He believes that the area identified is too large, and a 200 foot restriction from the reeds instead of the shoreline should be used. He advocates restrictions only from Memorial Day to Labor Day.

Snow and James – A 200 foot restriction from the reeds should be used in stead of the shoreline.

Steve Mayer of Snow Lake stated he’d lived here since 1962.

Narrows - Mayer states that the area is too large and should only be restricted on weekends. He suggests a 25 mph limit on I/O’s .

Follette - Mayer agrees with the restrictions and states they “make sense.”

Snow and James – Mayer states that the area is too large, only the channel should be restricted during 4th of July.

Diane Wielkening of Lake James spoke at the November 8 hearing.

She agrees that the rule should be postponed to get other input. She expresses concern that the rule is considered out of season.

Narrows – Wielkening supports use of channel buoys for a center line.

Mary Wyatt, owner of the marina, spoke at public hearing Nov. 8.

Narrows - Wyatt states that the centerline won’t work. She supports the use of brighter buoys because the white ones don’t work. Wyatt also supports a seasonal rule. She states she’s lived here for 38 years.

Dick Spake, owner on Lake James since 1963, spoke on Nov. 8.

Follette Creek – Spake agrees with the rule proposal here.

Snow and James - Spake states that only the channel should be restricted, not the whole area.

Narrows – Spake states that the rule is not needed from ice-on to ice-off. He states that he was responsible for the previous error on buoys as they were not anchored correctly. He agrees that the keep right rule through the Narrows would solve problems.

Kirk Arnold of Snow Lake provided comments on Nov. 8.

Narrows – Safety is seen by Arnold as the concern, and he supports a no-tow zone here. The beach he suggests should also be marked better. Arnold provided that the area proposed is too large.

John Irbine of Eli's Point spoke on Nov. 8.

Narrows – Irbine states that the proposal will cause more wakes and congestions. He supports a no-tow zone and restrictions on speeds and boat size.

WRITTEN COMMENTS

John A. Legge of Pokagon View provided written comments on Nov. 6:

The Legge family have owned property in Pokagon View since 1971. We have enjoyed many hours of boating pleasure on Lake James and the surrounding bodies of water. I feel a speed limit in the Pokagon or Lone Tree point areas would be a hazard to our boating community. The flow of traffic runs very smooth throughout the summer other than a couple busy holiday weekends. I think slower traffic would cause more accidents on the water, and possible serious injury. It is my opinion a speed limit is not needed at either of these locations.

Bill Scheele of Lake James provided e-mailed comments on Nov. 5:

“I have either rented or own property on Lake James for the past thirty years. Yes the boat traffic has increased over the years, but putting a speed limit at the narrows by Pokagon swim beach and Gray's Landing will not work. The only time there is a traffic problem, or an accident waiting to happen, is when a skier or a person on a PWC falls off. Therefore this area needs to be a NO TOW ZONE and NO U-TURN ZONE.

In this area, the only time a watercraft needs to turn is to get into Northwest

Landing which is O.K. I think you and Ralph Taylor better look at the whole picture before you make this area a no wake zone.”

Jim Owen wrote comments on Oct. 26:

“I am writing concerning the proposed changes in Boating restrictions on Lake James, Snow Lake and Otter Lake's. I am a property owner on Lake James.

I am deeply disturbed that this issue was not surfaced, the new restrictions widely disseminated and discussed during the summer season while people are actively using the Lakes and are available. It appears that you are attempting to slip this through during the off season.

I understand the safety issues and fully endorse improving safety in areas that present undue risks to boaters and others. I have seen what is presented as your proposed changes at the Lake James Association website. After a brief look at the photo's and descriptions of the proposed changes, I believe that the newly reduced speed areas are larger than they need to be. I also believe that idle speed is too slow for the new restrictions in some areas. A 10mph speed would make much more sense in the area between the 2nd and 3rd basin in Lake James and is consistent with the speed rule for night boating. I also believe that safety would be improved by banning towed toys such as tubes in any newly restricted areas regardless of speed.

I urge you not to move too hastily and wait until this change is widely known and understood and a proper debate has taken place. I have not seen any evidence of describing the problem that you are trying to solve, what are the alternatives for solving the problem and how the proposed changes solve the problem. In this day of information, why not publish this information your website?”

Karl Hartman of Bay View, Lake James e-mailed comments on Oct. 31:

“I personally don't see the need for these restrictions. I have lived on Lake James 25 years and I never see anyone going fast thru the Snow Lake or Follet Creek channels. Restricting speed out to the grass island on Snow Lake would remove the best water skiing site on the entire chain.

Restricting speed thru the Grays Landing/Pokagon beach narrows is only necessary a few hours a day, during a few weekends a year. Legislating a 100% restriction for less than 1% of the time is foolish and counterproductive. Better enforcement of existing laws and perhaps posting a patrol boat in the narrows during peak periods would be better.

If you have any questions or need any further information, please feel free to contact me.

Norm Gajewski of Angola Wire Products, Inc. provided e-mail comments on Nov. 7 :

“[R]estricted watercraft zones//lake James and Snow: my opinion: have been on the lake since 1980///and the narrows here are treacherous, notably on weekends... a common sense boater slows down, due to the bottleneck created by the narrow area, and the terrific wave wash, that jostles boat passengers who are trying to enjoy a leisurely ride... totally unsafe because of the large and powerful watercraft speeding thru the area///in fact, in our Lakes council meetings, held monthly, we continue to complain about the noise from the jet-boats, speed in excess of 30 to 50 mph., and the huge size of some craft.... this has been an issue for the last 15 years, and getting worse, as more condo's and villaminiums increase the lake density.... anything you can do to help us would be appreciated.... Norm Gajewski... 80 In 200 FD Lake James... Angola, In. 46703.. [note: our lake enhancement fees, attached to our registration costs, should be used to help provide funds for better controls}

Michael Pacult provided e-mailed comments on November 10, 2003:

“...I was unable to attend either meeting at Pokagon this past week, but I wanted to comment on a restricted speed zone between 3rd and 2nd (Upper and Middle) basins of Lake James. I am opposed to a speed limit at this location for the following reasons: boaters naturally slow down if there is increased traffic and the only time in fifty years of boating on James that I have seen a massive traffic jam (aside from fireworks' nights) was some years ago when Ken Loudon parked the Sheriff's boat in the channel on a weekend. When Ken left, so did the congestion. A speed zone at this location would make such traffic jams common occurrences with no guarantee that increased accidents would not occur, especially since boaters would tend to cluster much closer to one another at the slower speeds. Some limit on towing skiers or tubers through the narrows between the basins on weekends might be in order, but one would think that people would be able to figure that out for themselves without having the government having to tell them.”

Joseph M Sweeney provided comments by e-mail on Nov. 12:

- “1. Follet Creek no objection to the proposed speed limit and boundaries.
2. Snow Lake/Lake James Channel speed limit only in the channel proper.
3. The Narrows; There is no data available to distinguish this area of the lake as more dangerous or hazardous than any other part of Lake James.

Therefore, I am opposed to speed zone as presented.

Dave McKeeman, Lake James Cottage Owner and Boater, e-mailed comments on the rule proposal on :

“Verbal comments were provided to the DNR staff during the meeting and to Major Samuel Purvis following the meeting at Pokagon State Park Nature Center. Those comments are being documented by e-mail as suggested by Major Purvis. This is necessary due to erroneous email addresses having been provided in the past. Additionally, it is disturbing that comments provided in a July meeting of the Lake James Association were not collected by DNR (Soil conservation) employees nor passed on to the agency for rule making consideration.

General comments; The proposed changes substantially and needlessly changes the character of the lake chain to the detriment of the boaters on the chain, the property owners on the lake and the merchants in Steuben County all of whom enjoy the fruits of having available one of only 79 high speed lakes in the state of Indiana.

The Lake James chain attracts boaters and property owners from a 300 miles radius to the west, south and east (stretching beyond Chicago, Indianapolis, Cincinnati, Dayton, Columbus and Toledo). The unique character existing on this chain attracts these boaters and property owners. The chain is one of few large bodies of contiguous navigable water largely unfettered by needless rule and regulation. This has resulted in a harmonious relationship of swimmers, boaters, fishers and hunters.

The lake chain enjoys an enviable safety history. There have been few serious mishaps largely a result of the local Lake James Association emphasis on education and enforcement. The association has, in past years, sponsored and funded a lake patrol. The association sponsors and individual member property owners teach a local boater safety course. The few serious mishaps on the lake have not had roots in any situation addressed by the proposed rule but have frequently been unsafe boating practice and/or alcohol related.

While these proposed rule changes could and should be made if justified by safety or ecological concerns, it is evident by listening to the comments at the meeting that the attendees at the November 7/8, 2003 meeting reject that premise and overwhelmingly do not agree with substantial portions of the proposed rule change. It appeared that approximately 90% of those assembled strongly oppose that portion of the rules that extend beyond the practice of the prudent boat operator properly motivated by love of the lake and safety concerns. If only itinerant boaters spoke out against the proposed rule intrusions, the comments

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could be discounted as not balanced by an economic interest. In fact the majority of persons speaking out against the proposed ruling were lake property owners who stand to suffer if the lake is an unsafe or ecologically unsound area.

The Nov. 7/8 meeting attendance was significant given the inconvenience of the meeting on a cold November evening/morning. Attendance at that meeting pales with that assembled in July when the DNR presented the proposed rule change to the Lake James Association meeting. While the LJA was not assembled primarily to learn of this change it is interesting to note that the group was nearly unanimous in opposing those elements of the change which extend beyond common practice. In view of the depth of voiced opposition, it is remarkable that the change is still being pursued. The continuing DNR support of the proposal is understandable, only when one considers that neither the comments expressed nor the intensity of opposition displayed last August was recorded by the DNR employee or passed on for agency consideration in rule making. The DNR staff present on Nov 7/8 was very interested in collecting information. Unfortunately past errors and omissions as well as the political genesis of this proposal has colored local perception against the DNR information gathering practices. Many present voiced concern about the rule making process of obtaining public information. Unvoiced fear exists that the proposal was on a fast track and local opposition would not receive adequate weight or consideration. The appearance of Major Purvis helped alleviate this concern.

An important test of the propriety of a proposed law is would the proposal on its face merit the support of the public. Two of the proposed changes fail that test. Another prudent test is the practicality of administering the law once enacted. Two of the proposed changes fail in that regard. A proposed rule change should be free of unintended consequences which would be at least as onerous or create a hazard equal or larger than that proposed to remedy. Sadly two of the changes fail in that regard. Lastly without compelling reasons, the character of a locale should not be changed without utmost consideration of the economic and quality of life impacts on the community and its inhabitants. Two of these changes will deeply change the nature and character of Lake James chain to the detriment of the stakeholders in question.

Delays in holding the public meeting, loss of continuity of DNR staffing, and insufficient / inaccurate DNR contact information provided suggests that the public has not been adequately provided with a comment period and that DNR should postpone the rule process until 2004 when a larger percentage of those affected could be in attendance or could voice their concern. If the DNR insists on proceeding it should drastically alter the proposed rule to embrace the comments provided below:

Specific Comments to the three changes:

1) Snow Lake and Big Otter Lakes along Follette Creek:

The area is erroneously portrayed as Lake James.

No objection to the “No Wake Zone” proposal. Solid ecological concerns dictate that low speed operation be enforced. The narrow channel and obstructed view precludes safe high-speed operation. Prudent operators already follow this procedure voluntarily.

2) Lake James and Snow Lake channel. Proposed “No Wake Zone” is not appropriate in that it needlessly impedes orderly boat traffic on both lakes by extension of the no wake zone far beyond the channel itself. This extension is not warranted by safety since the channel is quite visible from both entrances and is wide enough for two boats to pass safely in the channel. No case for the change can be made on ecological grounds as evidenced by the abundance of bull rushes, cattails and other water vegetation including the continued existence of a healthy grass island in the immediate area.

Requested changes and rationale:

Relocate Points 1 and 2 to extend no further Lake James than the mouth of the channel. The No Wake zone on lake James should extend no further than the mouth of the channel rather than extending into Lake James. The queue of boats, which would be created by the proposed extension, would create an unsafe condition for those boaters in the queue as well as the ski boats and skiers executing a turn on the exit of the Ski course on Lake James. This would predictably lead to the efforts to shutdown of the Lake James Ski course. Said Ski course has continuously operated for 40 plus years on the lake. No other suitable expanse of water exists on the Lake James chain

Relocate point 4 to the mouth of the channel exit into Snow Lake. The No Wake Zone would now be from point 3 to the middle of the grass island and thence to the newly located point 4 (at the mouth of the channel). Prudent operators already follow this procedure voluntarily. Posting this as no wake would ensure that the visitors and non-prudent operators do not cause a boating hazard in the narrow region between the bull rushes and the grass island. A concern for safety exists for enforcing a speed zone on the narrow side of the grass island since the navigatable waterway is less than 200 foot and traversing that waterway encompasses a blind turn from either direction. Conversely, no safety case exists or can be made for the current proposed rule, which extends the no wake zone on both sides of the grass island. The proposed Point 4 would place the implementing signs so far distant from the grass island so as to be barely visible and in an illogical location likely to be overlooked by an approaching boater. No wake zones in areas of this width are inconsistent with common practice. Further this unwarranted intrusion would deprive the boating public of many acres of safe higher speed boating waters. This deprivation would create an unsafe channeling

of the boats from this waterway into ever decreasing waters elsewhere on the lake or the chain.

Prudent operators already observe no wake operation voluntarily in the area proposed herein.

3) Lake James between Upper Basin and Middle Basin of Lake James.

The proposed No Wake Zone unnecessarily restricts an open waterway, which, at its narrowest point is 475 foot wide. This 475 foot wide area exists for a very short expanse of only several boats lengths. Even at it's narrowest point there is a minimum of 75 foot of where higher speed boating can legally and safely be pursued. This greatly exceeds the width of many of our rivers and river fed lakes where high speed boating is common practice.

The state appears to be operating under several misconceptions:

First, the area in question is locally known as Grays Landing, inexplicably the state has labeled this area as The Narrows, a term unknown to any of the natives or boating public.

The state apparently does not appreciate the full width in the area to be zoned is between 1-2000 feet wide.

Second, the state apparently overestimates the traffic in this area. This waterway is heavily traveled on some, but not even most summer weekends. The proposed rule change impedes orderly traffic each and every day of every week of the year. This deprives the boater of safe navigatable high-speed waterway in the 90% of the spring, summer and fall days when the lake is sparsely traveled and no imaginable hazard could exist.

Third, the state has assumed that buoys and/or marking signs can be easily posted in the area marking the centerline of the channel and the proposed new zone. In fact the channel is very deep (40-60 foot). The depth of water and wave action has combined to resist all past attempts to place anchored buoys at mid channel. All bottom anchored buoys placed to date have been dislodged from the intended location resulting in confusion for visiting boaters. Errand buoys, gone adrift, have been ordered removed by DNR agents in the past. Bottom tethered buoys, while difficult to install and expensive to maintain could be considered however the length of any tether would allow buoy sway over a wide area resulting in ambiguity of the centerline of the channel.

Fourth, the length of the proposed rule change was based on ecological concerns to protect wetlands. If enacted, the bow wakes of boats coming off plane and going up on plane would be many times more harmful than the minor wake created by a boat proceeding on plane.

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Fifth, the state assumes that this proposal represents the will of Lake James Chain boaters and residents. In fact, a small Ad Hoc group operating in a politically sponsored forum hastily prepared this proposal and failed to properly coordinate the suggestion with affected stakeholders. In fact as repeatedly evidenced in meetings such as the Lake James Association annual meeting and the two DNR sponsored meetings in Nov. 2003 there was overwhelming opposition. Specifically, residents of the Grays Landing area on both sides of the channel spoke out in opposition to the proposed ruling at the Nov 2003 meeting.

Sixth, the state assumes that a rule change is necessary but has not considered actions already available without need for rule change. The state by its inaction has exasperated the situation. Note that the state, in the interests of economy, has abandoned past practice of having the swimming area of the park adequately marked by ropes and highly visible buoys. The state has relocated the lifeguard station which was a highly visibly symbol of regulatory and enforcement presence. The lifeguard positions have recently been the victim of job cuts. The state should return to the practice of clearly marking the confines of the swim area, relocate the lifeguard station, and adequately staff the lifeguard positions. This would clearly separate the swimming and boating areas and provide a visible authoritative presence to observe and enforce safety practices. The state could more economically return to this past practice than it could enforce the proposed new rule.

Seven, the state appears to not appreciate, the enforcement problems that the proposed rule would create. A No Wake Zone is not expected in a waterway more than 475 feet wide. The proposed No Wake Zone would be even less expected as it is proposed in an area that is well over a 1000-foot width. The average boater unfamiliar to the area would not note the signage placed in an illogical area. A frequent complaint heard on the lakes is that the government does not routinely and consistently enforce the existing rules on the lake chain because of lack of personnel. The state has in the recent past conducted Blitzes by itinerant agents on the specific weekends and subsequently moved on to other areas. This does little to provide education and consistent enforcement. Cottage owners prefer a local presence with due emphasis on education and consistent enforcement between sheriff and DNR. Ambiguity in the rule will lead to weak and inconsistent enforcement by DNR and local sheriff deputies.

Eighth, the state has not adequately evaluated the affect of unintended consequences. Any No Wake Zone in this area would disrupt the orderly flow of boats traversing the lake chain from upper basin and Snow Lake to the middle and lower basins and Lake Immersion and beyond. Establishing the rule as proposed bottles up boats in a queue on either side of the new No Wake Zone endangering boaters and swimmers if they take evasive actions by swerving to avoid the restricted area. Boats pulling skiers coming on an un-expected No Wake Area

might well de-accelerate to an extent that the skier would be forced to drop causing an unsafe situation for the skier. Boat pilots in boats transitioning onto a plane speed have decreased visibility due to bow elevation.

Conclusion:

The state should abandon the idea of a No Wake Zone.

Alternatives to the rule better address any problem.

The state should alleviate the situation by clearly marking the 200-foot line with moored buoys clearly delineating the 75-foot of high-speed waterway. This would protect the swimmers by confining higher speed boating within clearly marked channels well away from the beach and swimmers.

This remedy is more practical, logical and enforceable than that proposed, does not create new safety hazards or ecological damaging practices as would any No Wake Zone in this area.

I am opposed to the restrictions that are currently under consideration on Lake James and Snow Lake. Although the congestion on these Lakes during peak weekend hours is a concern, these restrictions are excessive and unnecessary. Many of the residents that live along the shoreline adjacent to the "narrows area" on Lake James are concerned that this is going to present a "dead end" area for high speed boaters where most boaters make a U-turn causing even more congestion and danger. I have asked many of the residents along these areas if they thought the proposed solution will be effective. Of the people I have asked many thought that it would not improve the situation and most said that It would make things worse. Not a single person I have spoke with supports the restriction as written or even knew of anyone along the shoreline that supports it.

The restriction proposed in the Lake James to Snow Lake channel is also unnecessary and excessive. I understand that since the boundaries of this channel are wetlands and not shoreline, that idle speed cannot be enforced there currently. I have been boating on these Lakes for 28 years and I have never seen anyone go through this channel at a high speed. The vast majority of the boaters view the reeds and cattails as the shoreline that they establish their 200' from shore for idling. I do not believe a restriction is necessary, but if a restriction is put in this area, coming out 200' from where the reeds and cattails currently are would be more consistent with the current state law, therefore less confusing.

Please consider that the vast majority of the people that live on these Lakes oppose these restrictions. There are a few hours of the day on peak summer weekends where these restrictions are hoping to protect boaters, but the residents that live here and use the lakes on peaceful

(quiet) non peak times will be forced to abide by these restrictions.”

Robert W. Driver Jr. provided comments on Nov. 10 by e-mail:

“I am opposed to the restrictions that are currently under consideration on Lake James and Snow Lake. Although the congestion on these Lakes during peak weekend hours is a concern, these restrictions are excessive and unnecessary. Many of the residents that live along the shoreline adjacent to the "narrows area" on Lake James are concerned that this is going to present a "dead end" area for high speed boaters where most boaters make a U-turn causing even more congestion and danger. I have asked many of the residents along these areas if they thought the proposed solution will be effective. Of the people I have asked many thought that it would not improve the situation and most said that it would make things worse. Not a single person I have spoke with supports the restriction as written or even knew of anyone along the shoreline that supports it.

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Please consider that the vast majority of the people that live on these Lakes oppose these restrictions. There are a few hours of the day on peak summer weekends where these restrictions are hoping to protect boaters, but the residents that live here and use the lakes on peaceful (quiet) non peak times will be forced to abide by these restrictions.”

Randy Strebig of Lake James provided e-mail comments on Nov. 10 as well as written comments at public hearing:

- ...1. Follet sound like a pretty fluid matter as suggested no further comment.
2. Snow Lake there appears to be a nearly unanimous consent to mark the channel proper only, I believe this should be the only rulemaking at this time.
3. The Narrows I heard some consistent concerns that are very valid about the new

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risks created by the proposal, and the summery of it points to a very clear answer, "IF" it must be changed, which is disputable, then lets make some real sense. first Memorial day to Labor day 10am to sunset on weekends and holidays ONLY, 1.one way traffic as depicted by a centerline, 2.no tow, 3.and a reasonable speed limit that will keep the traffic moving and on plane but will avoid all of the other concerns that were voiced and quite frankly very real. my suggestion is 25-30 mph a decent speed to have good reaction times and awareness as well as keeping even the big boats on plane to avoid the bow high visibility problem and the huge stern rollers.

Strebig's written comments follow:

1. Follett creek, the most simple and straight forward of the three issues makes use of good common sense where people don't have the wherewithal to exercise there naturally given ability to do so. Non withstanding the environmental issues of deterioration which I would like to point out that there is no data to support the claims. This is a very narrow passage and in conditions of nice weather fairly heavily trafficked and it only makes sense to navigate this channel at idle speed even without apposing traffic the turns and corners in some places can't support high speed traffic. If it can be show that boaters are not exercising good sense here it may have validity to have a law to allow enforcement of what should otherwise happen automatically.
2. Snow Lake, I would like to repeat all of my comments above re Follet creek as it would refer to the CHANNEL ONLY an area approximately 3-400 feet long between Snow and James. Non withstanding the environmental issues of deterioration which I would like to point out that ther is no data to support the claims. This is a very narrow passage and in conditions of nice weather fairly heavily trafficked and it only makes sense to navigate this channel at idle speed, even without apposing traffic the turns and corners in some places can't support high speed traffic. If it can be show that boaters are not exercising good sense here it may have validity to have a law to allow enforcement of what should otherwise happen automatic. There is no other practical or sensible reasons to attempt to manage or control any other area adjacent to this, to do so is to attempt to micro manage and over control an area that has no historical data of being a dangerous element or any more potential of danger than any area on the lake including the wide open spaces in the middle of the largest basins when two or more boats are on the same water.

As far as the proposal as a wetlands preservation first let me restate that there is no supporting data to show that they are being destroyed and that installing some kind of zone will be the saviour but also point out that no matter where you draw the lines including the proposal you can't address 100% protection, additionally when the lake become busy there is no amount of space between

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the traffic and the cattails that will calm the waters, additionally these specific areas are not navigable up close nor could you ever consider crossing them even in an air boat as there is too much density and no supporting water depth. These area's appear strong and substantial can't be navigated across or up close too so don't attempt to create more unnecessary legislation to add more controls to an unnecessary issue the only end result is the devaluing of the Lake and its freedoms. A final comment is that Snow lake has been historically used by water-skiers due to lesser traffic and wind protection, to encumber these historical uses is unnecessary, and again devalues the Lake to the people who respect and enjoy it.

3. Lake James Narrows second to third basin: First I would like to again stress that there is no supporting data to suggest that this idle zone is necessary, there is no doubt that it isn't busy and congested on the necest weekends in the summer and some folks use poor judgment, these times are isolated and outnumbered by far the times that this waterway is sparse to vacant of traffic, it is way out of line to punish the users of this lake for these idolated occurrences. If you find it necessary to micro manage our lakes and this area specifically then address the real topics and there related times where poor common sense by a few individuals can be witnessed. My suggestion in order of potential risk importance are establish a no tow zone on Saturdays and Sundays during the busiest of the season such as memorial day to labor day and on those days from 10 am to sunset as the early morning water sports take place in light traffic without a great risk potential, time frame establish a center.line and require one way traffic such as a road right of way would be, under current navigation procedure this actually should happen automatically and does to some degree. I feel that any attempt to control this area is an over step of authority and is also devaluation to the lake and its users."

Written comments were provided by CAPOMIA@aol.com via two separate writings which were voiced at public hearing:

...the proper channels for the local authorities to requests assistance on an inland lake. The local sherif just needs to send a letter to The Coast Guard district commander requesting assistance on the following body of water, then list the areas where they would like the patrols to occur. And usually the dates when assistance is needed, the address is as follows. To Commander (OAX) 9th CG District, 124 E 9th St., Cleveland, Ohio 44199."

CAPOMIA@AOL.com's second e-mail of Nov. 6 provides:

"Any law enforcement officer can write a ticket for negligent operation. So there is no need for a speed limit. If you put a speed limit on one section of the lake this will concentrate substantial numbers of the boating traffic away from this specific

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area and move them to other areas of the lake. Perhaps a better approach would be to have a regular boating safety presence in this area at particular times of heaviest usage of this area by boaters weekends holidays etc. the Coast guard Auxiliary while not having law enforcement powers has offered up its services to the DNR and the Steuben county Sheriff. So the additional man power for a boating safety presence is available for the asking. I can only speak as a private citizen and relate many years of doing safety patrols and marine events through out the great lakes.

Mel Hathaway provided additional written comments during public hearing:

...Please consider extending the speed zone between 2nd and 3rd basins to the south end of the 2 ac island in basin 2. My cottage is on Eli's Point, Gray's Landing (80-LN 510 FA Lake James). I expect to receive even larger wakes from boats than I do now, turning around instead of going through the narrow. According to a 1996 Information Bulletin #10 from IDNR, the 2 ac island is identified as a significant wetland and a portion of Gray's Landing is identified as an area of special concern. Both of these shorelines will suffer increased erosion damage from boat wakes and need protection, in my opinion.

Chris Archbold provided e-mail comments on Nov. 11 and states that he opposes 312 IAC 5-6-5.

Larry Tomb e-mailed comments on Nov. 12:

"This e-mail is advising my **disapproval** Of limiting the speeds as proposed in the area between the second and third basins of Lake James. If the proposed restrictions are approved this will only cause more problems with traffic, higher waves and erosion of soil along the lake banks.

Boat traffic will stay in the second and third basins and not proceed from one to the other. With all this traffic turning is going to create a bowl effect causing high waves. Also the boats that due continue from one to the other, will come off plane and just create higher wakes and rougher water.

I live on Snow Lake and see no reason to reduce speeds on any part of this Lake. The area in question does not have any problems with speed. I pass thru the area several times each weekend and during the week in the evenings and have never seen any speed problems. Everyone passes thru the area at idle speed creating no rough water or wakes.

I also feel that to make these public hearings fair, they should be held between May and September when property owners, that do not live on the lake year round, would be at their lake properties and could attend these hearings. That would make it fair and equal for all parties involved.

Please **do not pass** these restrictions and create larger problems and more turmoil on our lakes."

Exhibit A - DNR RESPONSE

**Response to Comments
Lake James Chain-of-Lakes
Administrative Cause #03-069L (LSA #03-92)**

To: Sylvia Wilcox
Date: November 14, 2003
From: Samuel E. Purvis, Division of Law Enforcement

I have reviewed all written comments and attended the both public hearings on November 7 & 8, 2003 at Pokagon State Park, Angola, Indiana. There was a considerable amount of concern for two of the three areas addressed in the rule change proposal. The three areas are: {Zone 1} Lake James, between middle and upper basin; {Zone 2} Lake James and Snow Lake; and {Zone 3} Follette Creek.

Zone 1 Lake James, between middle and upper basin: an area also known as “the narrows”, received the most attention. There were some excellent alternatives to the original proposal and some misunderstanding for boating rules and laws.

The majority of the comments felt the sheer size of Zone 1 was too large; the Department of Natural Resources (DNR) is proposing to amend the northern border. This amendment will shorten the length of the zone by at least 1/3 the original size.

The original proposal incorporated the Pokagon State Park swimming beach. The comments reflected how the park used to have a more visible boundary defining the swimming area. It included a dive platform and lifeguard stands. All of these have been removed and replaced with swim rope and floating buoys. The Law Enforcement Division will consult with the Division of State Parks and purchase a buoy marking system that is highly visible to boaters.

Many comments wanted the DNR to consider placing centerline of marker buoys defining a “keep right” designation. This has not proven to be a good practice in this area of Lake James. The channel is deep in these narrows making regulatory buoy shift or sway too far left or right. This happens when it’s windy and/or boat traffic is heavy. The result is an even smaller area near or within the 200 foot from shoreline making travel at higher speeds impossible.

Several comments suggested a “no-tow” regulation for this area. A “no-tow” rule would still allow boats to travel at higher speeds. “Idle speed” was proposed because of the wave condition that exists in this area when boats travel at high speed. The wave action in the narrows is not consistent with wind direction or current. Waves are multi-

directional (caused by the boat traffic) and need to be calmed. Boats maneuvering at “Idle speed” can do this. Idle speed is defined in Indiana Code 14-8-2-129 and Indiana Administrative Code 312 IAC 5-2-17. “Idle speed” means the slowest possible speed, not exceeding five (5) miles per hour, that maintains steerage so that the wake or wash created by the watercraft is minimal.

Concerns about boats turning around or doing a “u-turn” at the proposed idle zone may have some validity. However the comments also reflect that people don’t like to ski or tow an object through the narrows. This would lead me to believe; from the conversation during the public hearings that this (boats turning around before the narrows) is the practice now. The Division of Law Enforcement will ensure the 200 foot from shore regulatory buoys are sufficient along the boundaries of this zone. This will deter boats from traveling too close to shore when turning around.

The original proposal designated this area an idle zone without any consideration for the time of year. Suggestions were presented to govern this area during the peak boating season. The amended proposal from the DNR will reflect language that is consistent with other boating rules within Indiana Administrative Code 312 (*In order to be effective, a zone established under this rule must be identified on-site by buoys placed under 312 IAC 5-4.*)

Zone 2 Lake James and Snow Lake: The majority of the comments felt the sheer size of Zone 2 was too large; the Department of Natural Resources (DNR) is proposing to amend the northern border. This amendment will shorten the length of the zone by at least 1/2 the original size and address the area of concern, the channel through the emergent vegetation.

Zone 3 Follette Creek: This area did not receive much opposition because most property owners and boaters thought an idle speed law was already in existence. The DNR’s original proposal remains unchanged.

Other concerns:

A minor technical error exists in the language of the original proposal. This will be corrected in the amended version.

III. HEARING OFFICER RECOMMENDATIONS

1. The Division of Law Enforcement responses proposing amendments to the preliminary language were provided above in Exhibit A, and were incorporated in the Hearing Officer’s recommendations.

2. Specifically, the comments support a revision to consider heavy traffic seasons for watercraft restrictions. Heaviest use of the Lake James chain of lakes occur between Memorial Day and Labor Day. Buoys will be utilized to identify watercraft restrictions on Lake James in the narrows separating the Upper and Middle Basins, and in the narrows separating Lake James from Snow Lake between Memorial Day and Labor day each year.

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3. Comments additionally support a reduction in the size of the watercraft restricted areas on Lake James between the narrows separating the Upper Basin and the Middle Basin, and in the narrows separating Lake James from Snow Lake. The lines forming these points are amended in 312 IAC 5-6-5(c)(1) and 312 IAC 5-6-5(c)(2) of Exhibit C attached.
4. A minor technical error was identified regarding the location of Follett Creek which is amended in 312 IAC 5-6-5(c)(3) of Exhibit C attached.

It is recommended that the Natural Resources Commission adopt 312 IAC 5-6-5 amendments as shown in Exhibit C attached.

Dated: November 17, 2003

Sylvia R. Wilcox
Hearing Officer

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Exhibit B Preliminarily Adopted Rule – July 22, 2003

Document: Proposed Rule, **Register Page Number:** 27 IR 220
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TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
 LSA Document #03-92

DIGEST

Amends 312 IAC 5-6-5, governing special watercraft restrictions on Lake James, to apply to other lakes in the Lake James Chain of Lakes and add new restricted watercraft zones, including those for Lake James, the channel between Lake James and Snow Lake, and Follett Creek between Big Otter Lake and Snow Lake. Effective 30 days after filing with the secretary of state.

312 IAC 5-6-5

SECTION 1. 312 IAC 5-6-5 IS AMENDED TO READ AS FOLLOWS:

312 IAC 5-6-5 Lake James Chain of Lakes; special watercraft zones

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14; IC 32-19-11

Sec. 5. (a) This section establishes special watercraft zones on the Lake James Chain of Lakes in Steuben County. For the purposes of this section, the Lake James Chain of Lakes includes the following:

- (1) Big Otter Lake.**
- (2) Jimmerson Lake.**
- (3) Lake James.**
- (4) Little Otter Lake.**
- (5) Marsh Lake.**
- (6) Snow Lake.**
- (7) The streams connecting the lakes.**

(b) A person must not operate a watercraft at either of the following sites located within Lake James: ~~in Steuben County:~~

- (1) Adjacent to the Pokagon Beach in Pokagon State Park with:**
 - (A) the southern boundary beginning at a point on the shoreline at the southern edge of the Pokagon Beach, the point being located north fifty (50) degrees west, a distance of one hundred twenty-four (124) feet from the northwest corner of the concession building;**
 - (B) the northern boundary beginning at a point on the shoreline five hundred (500) feet north of the point on the shoreline described in clause (A) and running perpendicular to the shoreline for one hundred fifty (150) feet; and**
 - (C) the western boundary formed by a line running parallel to the shoreline and terminating at the lakeward-most points of the southern boundary and the northern boundary.**
- (2) Adjacent to the Potawatomi Inn Beach in Pokagon State Park with:**
 - (A) the western boundary beginning at a point on the shoreline at the western edge of the Potawatomi Inn Beach and running perpendicular to the shoreline for one hundred fifty (150) feet;**
 - (B) the eastern boundary beginning at a point on the west end of a concrete seawall in front of the boat rental and running perpendicular to the shoreline for one hundred fifty (150) feet; and**

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(C) the southern boundary formed by a line running parallel to the shoreline, approximately three hundred (300) feet long, and terminating at the lakeward-most points of the western boundary and the northern boundary.

(c) A person must not operate a watercraft in excess of idle speed at any of the following locations:

(1) On Lake James in the narrows separating the Upper Basin from the Middle Basin and more particularly described as follows:

(A) Southerly of buoys placed along a line formed by these points:

(i) SPC 2354493.00 north and 499044.00 east; and

(ii) 2354493.00 north and 500231.00 east.

(B) Northerly of buoys placed along a line formed by these points:

(i) SPC 2353106.00 north and 499032.00 east; and

(ii) 2353106.00 north and 500088.00 east.

(2) In the narrows separating Lake James from Snow Lake and more particularly described as follows:

(A) Southwesterly of buoys placed along a line formed by these points:

(i) SPC 2359295.70 north and 499366.98 east; and

(ii) SPC 2358014.99 north and 500882.81 east.

(B) Northerly of buoys placed along a line formed by these points:

(i) SPC 2357538.77 north and SPC 499176.13 east; and

(ii) SPC 2357538.77 north and SPC 500632.12 east.

(3) Along Follett Creek between Big Otter Lake and Snow Lake and more particularly described as follows:

(A) Easterly of buoys placed along a line formed by these points:

(i) SPC 2360938.47 north and 503160.06 east; and

(ii) SPC 2360451.35 north and 503265.57 east.

(B) Westerly of buoys placed along a line formed by these points:

(i) SPC 2359972.56 north and 505744.48 east; and

(ii) SPC 2359897.33 north and 505840.23 east.

(d) The coordinates used in subsection (c) apply the Indiana coordinate system of 1983, east zone, in United States Survey feet as defined in IC 32-19-11 and referenced as "SPC". *(Natural Resources Commission; 312 IAC 5-6-5; filed Mar 23, 2001, 2:50 p.m.; 24 IR 2374, eff Jan 1, 2002)*

Exhibit C

TITLE 312 NATURAL RESOURCES COMMISSION

AMENDED Proposed Rule AMENDED
LSA Document #03-92

DIGEST

Amends 312 IAC 5-6-5, governing special watercraft restrictions on Lake James, to apply to other lakes in the Lake James Chain of Lakes and add new restricted watercraft zones, including those for Lake James, the channel between Lake James and Snow Lake, and Follett Creek between Big Otter Lake and Snow Lake. Effective 30 days after filing with the secretary of state.

312 IAC 5-6-5

SECTION 1. 312 IAC 5-6-5 IS AMENDED TO READ AS FOLLOWS:

312 IAC 5-6-5 Lake James Chain of Lakes; special watercraft zones

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14; IC 32-19-11

Sec. 5. (a) This section establishes special watercraft zones on the Lake James Chain of Lakes in Steuben County. For the purposes of this section, the Lake James Chain of Lakes includes the following:

- (1) Big Otter Lake.**
- (2) Jimmerson Lake.**
- (3) Lake James.**
- (4) Little Otter Lake.**
- (5) Marsh Lake.**
- (6) Snow Lake.**
- (7) The streams connecting the lakes.**

(b) A person must not operate a watercraft at either of the following sites located within Lake James: in ~~Steuben County~~:

- (1) Adjacent to the Pokagon Beach in Pokagon State Park with:**
 - (A) the southern boundary beginning at a point on the shoreline at the southern edge of the Pokagon Beach, the point being located north fifty (50) degrees west, a distance of one hundred twenty-four (124) feet from the northwest corner of the concession building;**
 - (B) the northern boundary beginning at a point on the shoreline five hundred (500) feet north of the point on the shoreline described in clause (A) and running perpendicular to the shoreline for one hundred fifty (150) feet; and**
 - (C) the western boundary formed by a line running parallel to the shoreline and terminating at the lakeward-most points of the southern boundary and the northern boundary.**
- (2) Adjacent to the Potawatomi Inn Beach in Pokagon State Park with:**
 - (A) the western boundary beginning at a point on the shoreline at the western edge of the Potawatomi Inn Beach and running perpendicular to the shoreline for one hundred fifty (150) feet;**
 - (B) the eastern boundary beginning at a point on the west end of a concrete seawall in front of the boat rental and running perpendicular to the shoreline for one hundred fifty (150) feet; and**
 - (C) the southern boundary formed by a line running parallel to the shoreline, approximately three hundred (300) feet long, and terminating at the lakeward-most points of the western boundary and the northern boundary.**

AGENDA ITEM #13

(c) A person must not operate a watercraft in excess of idle speed at any of the following locations:

~~(1) On Lake James in the narrows separating the Upper Basin from the Middle Basin and more particularly described as follows:~~

~~(A) Southerly of buoys placed along a line formed by these points:~~

~~(i) SPC 2354493.00 north and 499044.00 east; and~~

~~(ii) 2354493.00 north and 500231.00 east.~~

~~(B) Northerly of buoys placed along a line formed by these points:~~

~~(i) SPC 2353106.00 north and 499032.00 east; and~~

~~(ii) 2353106.00 north and 500088.00 east.~~

~~(2) (1) In the narrows separating Lake James from Snow Lake and more particularly described as follows:~~

~~(A) Southwesterly Northerly of buoys placed along a line formed by these points:~~

~~(i) SPC 2359295.70 2358640.00 north and 499366.98 498640.00 east; and~~

~~(ii) SPC 2358014.99 north and 500882.81 east.~~

~~(B) Northerly of buoys placed along a line formed by these points:~~

~~(i) SPC 2357538.77 north and SPC 499176.13 east; and~~

~~(ii) SPC 2357538.77 north and SPC 500632.12 east.~~

~~(3) (2) Along Follett Creek between Big Otter Lake and Snow Lake and more particularly described as follows:~~

~~(A) Easterly Westerly of buoys placed along a line formed by these points:~~

~~(i) SPC 2360938.47 north and 503160.06 east; and~~

~~(ii) SPC 2360451.35 north and 503265.57 east.~~

~~(B) Westerly Easterly of buoys placed along a line formed by these points:~~

~~(i) SPC 2359972.56 north and 505744.48 east; and~~

~~(ii) SPC 2359897.33 north and 505840.23 east.~~

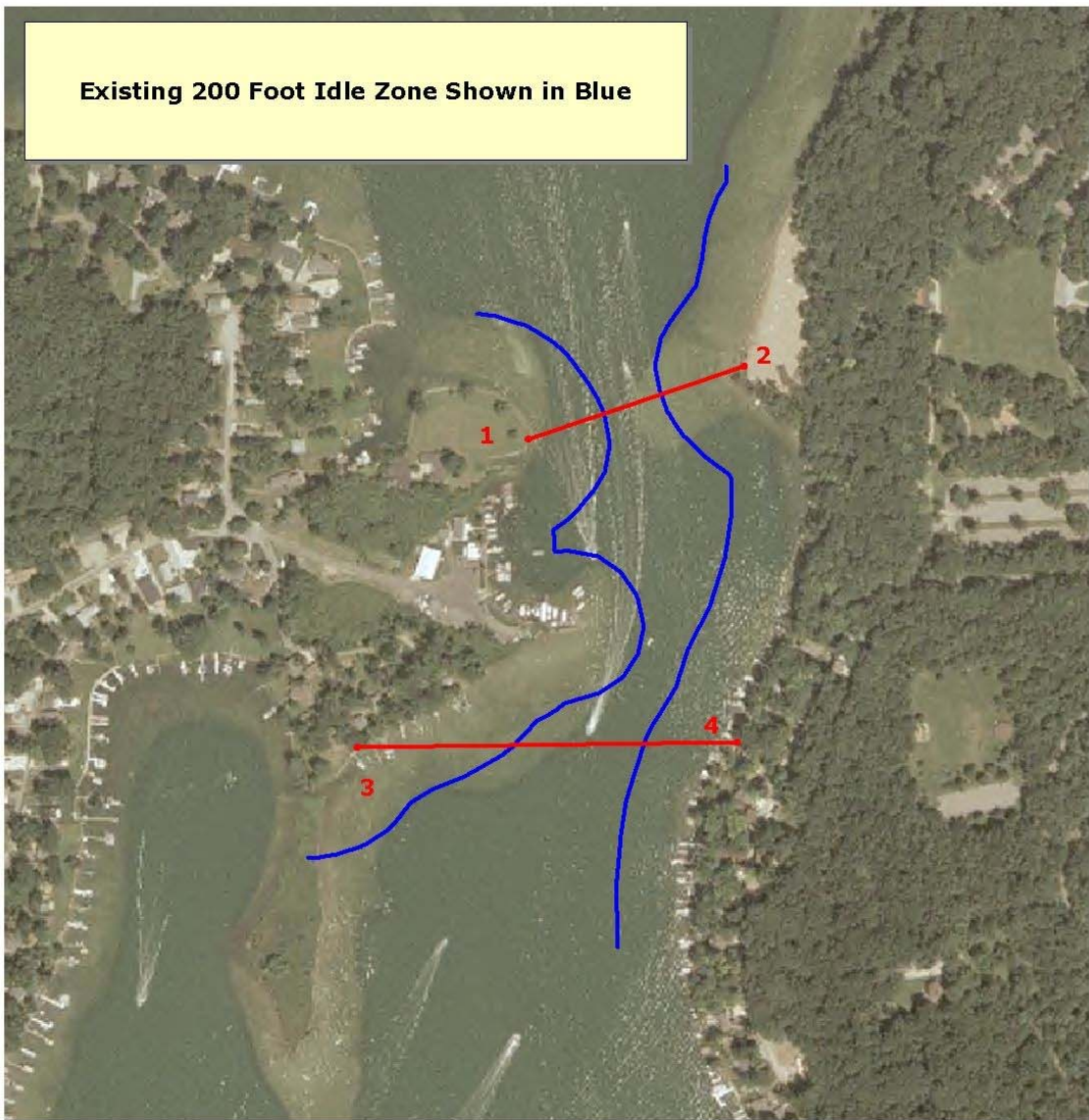
(d) The coordinates used in subsection (c) apply the Indiana coordinate system of 1983, east zone, in United States Survey feet as defined in IC 32-19-11 and referenced as "SPC". (*Natural Resources Commission; 312 IAC 5-6-5; filed Mar 23, 2001, 2:50 p.m.; 24 IR 2374, eff Jan 1, 2002*)



Pointid	Northing	Easting
1	2353955.00	499520.00
2	2354150.00	500125.00
3	2353106.00	499032.00
4	2353106.00	500088.00

State of Indiana
Department of Natural Resources

Lake James
Between Upper Basin
and Middle Basin
Steuben County



Pointid	Northing	Easting
1	2353955.00	499520.00
2	2354150.00	500125.00
3	2353106.00	499032.00
4	2353106.00	500088.00

State of Indiana
Department of Natural Resources

Lake James
Between Upper Basin
and Middle Basin
Steuben County



Point ID	Northing	Easting
1	2357538.77	499176.13
2	2357538.77	500632.12
3	2358640.00	498640.00
4	2358014.99	500882.81

**State of Indiana
Department of Natural Resources
Lake James and Snow Lake
Steuben County**



Point ID	Northing	Easting
1	2357538.77	499176.13
2	2357538.77	500632.12
3	2358640.00	498640.00
4	2358014.99	500882.81

**State of Indiana
Department of Natural Resources
Lake James and Snow Lake
Steuben County**

Boating Accident Summary
Source: Boating Accident Reporting Database (BARD), U.S. Coast Guard
Lake James, Steuben County, Indiana

Accident Totals:

1998 = 2
1999 = 4
2000 = 5
2001 = 3
2002 = 2

Accident location between Upper Basin and Middle Basin:

1998 = 1
1999 = 2
2000 = 2
2001 = 2
2002 = 1

1998; injury, falls overboard, struck by boat, very rough water, under 10 hours experience, Pontoon/PWC.

1999; damage and injury, capsizing, excessive speed, rough water, under 10 hours experience, open boat and unknown.

1999; injury, falls overboard, struck by boat, rough water, 10-100 hours experience, PWC.

2000; damage, collision, rough water, 10-100 hours experience, PWC/PWC.

2000; injury, collision, rough water, over 100 hours experience, PWC/PWC.

2001; damage, collision, rough water, over 100 hours experience, PWC/PWC.

2001; injury, falls overboard, rough water, under 10 hours experience, PWC.

2002; injury, falls overboard, excessive speed, calm water, over 100 hours experience, PWC.

Cause listed for falls overboard contributed to excessive speed, wake of another boat and hazardous water.

Alcohol was not a contributing factor to these accidents.